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In re Application of
SHULOV, Aharon, et al.
Application No.: 10/030,380
PCT No.: PCT/IL99/00386
Int. Filing Date: 14 July 1999
Priority Date: None
Attorney's Docket No.: 24871
For: ANALGESIC FROM SNAKE VENOM

DECISION ON

PAPERS

UNDER 37 CFR 1.42

This decision is in response to applicants' response to Notification of Missing Requirements, filed 10 May 2002. A review of the Declaration reveals an indication that joint inventor Aharon Shulov is deceased. Applicants' submission has been treated as a request for status under 37 CFR 1.42.

BACKGROUND

On 14 July 1999, applicants filed international application PCT/IL99/00386. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 18 January 2001. On 11 February 2001, a demand for international preliminary examination was filed within nineteen months from the priority date. As such, the deadline for entry into the national stage in the United States was 14 January 2002.

On 10 January 2002, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 13 March 2002, USPTO mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors, in compliance with 37 CFR 1.497(a)-(b) and the surcharge for furnishing the oath or declaration later than thirty months from the priority date were required.

On 10 May 2002, applicants filed a declaration accompanied by the fee for filing the declaration later than thirty months from the priority date.

DISCUSSION

Under 35 U.S.C. §117, legal representatives of deceased inventors may make application for patent upon compliance with the requirements and on the same terms and conditions applicable to the inventor. The "legal representative (executor, administrator, etc.) of the

deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent." 37 CFR 1.42.

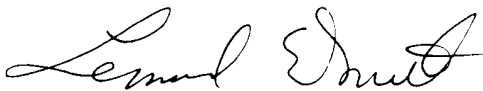
In this case, Ms. Shulov Barkan signed the declaration as "personal representative" of the deceased inventor. However, the declaration must list the citizenship, residence and postal address for both Ms. Shulov Barkan and inventor Shulov. See 37 CFR 1.497 and 37 CFR 1.63. The declaration only lists the information for either Ms. Shulov Barkan or inventor Shulov, not both as required.

CONCLUSION

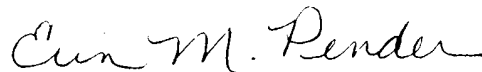
For the above reasons, the request for status under 37 CFR 1.42 is **REFUSED**.

Applicant is required to submit a declaration in compliance with 37 CFR 1.497 and 1.42 within a time period of **TWO (2) MONTHS** from the mail date of this Decision. **THIS PERIOD FOR RESPONSE MAY BE EXTENDED UNDER 37 CFR 1.136(a). FAILURE TO PROPERLY RESPOND WILL RESULT IN ABANDONMENT.** Any request for reconsideration of this decision should include a cover letter entitled "Renewed Submission Under 37 CFR 1.42."

Please direct any further correspondence with respect to this matter to the Commissioner of Patents and Trademarks, Box PCT, Washington, D.C. 20231, and address the contents of the letter to the attention of the Office of PCT Legal Administration.



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